

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 1075 of 2015(O&M)

Date of decision : 09.05.2017

Dharampal Yadav

..... Appellant

versus

Dakshin Haryana Bijli Vitran Nigam Ltd.
and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Vivek Khatri , Advocate for the appellant.

Mr.Surender Dhull, Advocate for respondents No. 1 to 4.

SURYA KANT, J. (Oral)

This Letters Patent Appeal is directed against the order dated 20.05.2015 whereby learned Single Judge has dismissed appellant's writ petition in which he claimed stepping up of his pay at par with his junior namely Jai Singh-respondent No.5.

(2) The appellant belongs to general category whereas Jai Singh-respondent No.5 belongs to reserve category. The appellant was admittedly senior to respondent No.5, firstly as peon and then as LDC. However, in the cadre of UDC and as Assistant, Jai Singh got promotion earlier than the appellant. Eventually the appellant was also promoted as Assistant and at that time Jai Singh was already working as such. The appellant claimed that his pay deserves to be stepped up at par with his junior in view of the

Government instructions dated 05.03.2009 which have been adopted by the respondent-corporation.

(3) Learned Single Judge, however, has ruled that the appellant actually wants to invoke catch-up principle as laid down in **Ajit Singh Janjua-II and others v. State of Punjab and others, JT 1999(7) SC 153**.

It has been observed that by the time the appellant was promoted as UDC, his erstwhile junior had already got promotion as Assistant, therefore, principle of catch-up is not attracted.

(4) Having heard learned counsel for the parties, we find that learned Single Judge has not considered the claim of the appellant in terms of Government instructions dated 05.03.2009 read with instructions dated 18.12.2013. Under these instructions a general category employee has been held entitled to seek stepping up of his pay at par with his junior belonging to reserve category who gets out of turn promotion against reserved post(s).

(5) Learned counsel for the respondent-corporation, on the other hand, submits that the appellant is not entitled to the benefit of the above stated instructions for the reason that while he was promoted under the 'qualified quota', his junior Jai Singh got promotion under the 'unqualified quota'. It is thus urged that both of them were in different cadres and it was not a case where a junior got promotion within the same cadre. Though there may be some merit in the contention raised by learned counsel for the respondent-corporation but the fact of the matter is that such a plea was also not raised or considered by the learned single judge.

(6) In this view of the matter it appears that the matter requires reconsideration by the learned single Judge. Consequently, we allow this appeal in part, set aside the order dated 20.05.2015 and without expressing

anything on merits, remand the case to the learned single Judge for a fresh decision. Parties through their counsel are directed to appear before the learned Single Judge on 03.07.2017.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

May 09, 2017
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No